

OPINION
51-64

March 1, 1951 (OPINION)

FEES

RE: No Charge by County Court If No Taxable Estate

Yours of the twenty-fourth of February has been referred to my desk. As I understand it, your question is whether or not your office should charge a fee of any kind for proceedings had as prescribed by section 57-3717 and section 57-3718 when it appears that there is no taxable estate involved.

There is no fee prescribed by chapter 57-37 for these proceedings. In ordinary cases the proceedings prescribed by section 57-3717 would in fact be preliminary to and part of an administration for which a fee is prescribed by section 27-0740 1949 Supplement and, of course, such fee would be charged when the actual administration was begun.

If, however, it appears from these preliminary proceedings that there is no estate over and above exemptions for administration, the county court makes the order prescribed by section 57-3718 and goes no further.

The general rule is that no officer may charge a fee where such fee is not prescribed by law. Therefore, it is our opinion that no fee may be charged for these preliminary proceedings.

I am enclosing you a copy of a letter written to Roy A. Ilvedson, at Minot, on March-20, 1947 on the same subject.

ELMO T. CHRISTIANSON

Attorney General